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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~196.~~ 26

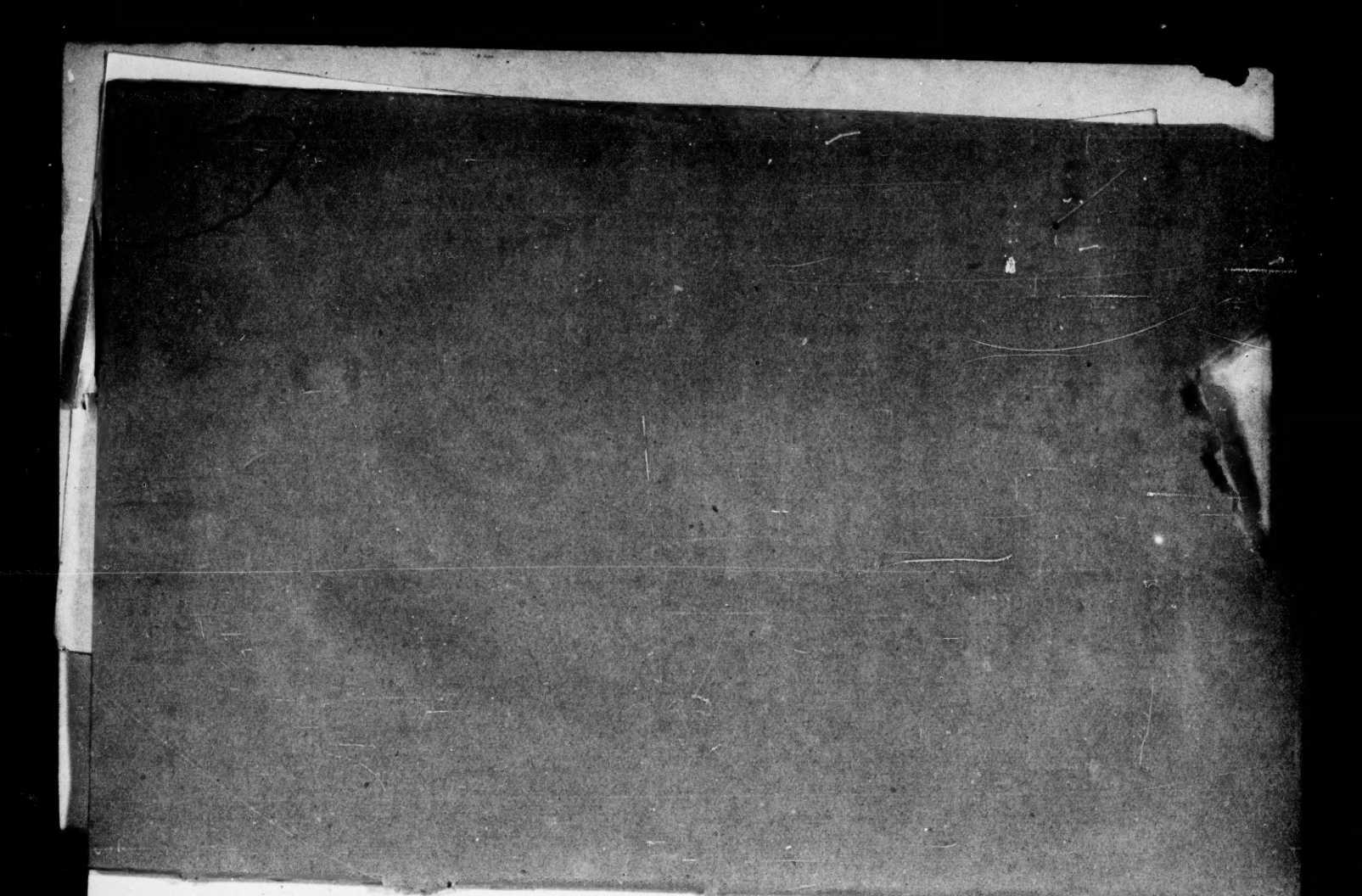
THE UNITED STATES, PLAINTIFF,

vs.

SAMUEL D. SINGLETON.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED MARCH 10, 1880.



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1 At a term of the circuit court of the United States for the southern district of New York held on the last Monday of February, 1880.

Present, Hon. Samuel Blatchford, circuit judge, Hon. William G. Choate, district judge.

THE UNITED STATES
vs.
SAMUEL D. SINGLETON. } Indictment.

Whereas a question has occurred in the above-entitled cause before the circuit court aforesaid upon which the judges holding said court, to wit, the judges above named, are divided in opinion, and the United States attorney prosecuting in behalf of the United States, and Louis F. Post, esq., of counsel for the defendant, have requested that the point upon which the said judges so disagree be stated under the direction of the said judges and certified under the seal of the court to the Supreme Court of the United States at its present session:

2 Now, therefore, it is hereby according' stated and certified as follows, to wit:

On the 9th day of December, 1879, an indictment was presented in the circuit court of the United States for the southern district of New York, charging Samuel D. Singleton with the offences described in the first section of the act of Congress entitled "An act to protect all citizens in their civil and legal rights," approved March 1st, 1875.

The following is a copy of said indictment.

Circuit court of the United States of America for the southern district of New York, in the second circuit.

At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, begun and held at the city of New York, within and for the district and circuit aforesaid, on the second Wednesday of October, in the year of our Lord one thousand eight hundred and seventy-nine, and continued by adjournment to and including the ninth day of December, in the year of our Lord one thousand eight hundred and seventy-nine.

3 SOUTHERN DISTRICT OF NEW YORK, *ss:*

The jurors of the United States of America, within and for the district and circuit aforesaid, on their oath present that Samuel A. Singleton, late of the city and county of New York, in the district and circuit aforesaid, yeoman, heretofore, to wit, on the twenty-second day of November, in the year of our Lord one thousand eight hundred and seventy-nine, at the southern district of New York, and within the jurisdiction of this court, did wilfully and unlawfully with force and arms deny to one William R. Davis, junior, being then and there a citizen of the United States, the full enjoyment of the accommodations, advantages, facilities, and privileges of a theater and place of public amusement, to wit, of the theater commonly called and known as the Grand Opera House, said theater being situated at the northwest corner of Eighth avenue and Twenty-third

street in the city of New York, said denial not being made for any reason or reasons by law applicable to citizens of every race and color and regardless of any previous condition of servitude, then and there against the peace of the United States and their dignity, and against the
4 form of the statutes of the said United States in such case made and provided.

STEWART L. WOODFORD,
United States Attorney.

(Endorsed:) U. S. circuit court. The United States of America vs. Samuel D. Singleton. Indictment. Violation of civil rights. U. S. St., vol. 18, p. 330, § 2. Stewart L. Woodford, U. S. dist. attorney.

A true bill.

GEORGE BLISS, *Foreman.*

U. S. circuit court. Filed December 9th, 1879. John I. Davenport, clerk.

5 On the fourteenth day of January, 1880, a demurrer was interposed, which was argued before Hon. Charles L. Benedict, holding a circuit court of the United States in and for said district, on the fourteenth day of January, 1880, who afterward ordered a reargument of the same at the same term of the court, and on the last Monday of February, 1880.

The following is a copy of said demurrer.

Demurrer to indictment.

Circuit court of the United States for the southern district of New York.

UNITED STATES
ag'st
SAMUEL D. SINGLETON.

And the said Samuel D. Singleton, in his own proper person, cometh into court here, and, having heard the said indictment read, says that the said indictment and the matters therein contained are not sufficient in law, and that he, the said Samuel D. Singleton, is not bound by the law of the land to answer the same, for that the act of Congress entitled
6 "An act to protect all citizens in their civil and legal rights," approved March 1st, 1875, under which act the said indictment was found, is unconstitutional, and this he is ready to verify.

Wherefore, for want of a sufficient indictment in this behalf, the said Samuel D. Singleton prays judgment, and that by the court he may be dismissed and discharged from the said premises in the said indictment specified.

L. F. POST,
Att'y for Defendant.

We consent that the within demurrer be filed nunc pro tunc as of second Wednesday of January, 1880.

STEWART L. WOODFORD,
U. S. Att'y.

L. F. POST, *Att'y for Def't.*

Ordered accordingly.
March 6th, 1880.

SAMUEL BLATCHFORD.

7 (Endorsed:) U. S. circuit court. The United States ag'st Samuel D. Singleton. Demurrer to indictment. Louis F. Post, def't's att'y.

It is hereby consented that the within demurrer be filed nunc pro tunc as of the 2d Wednesday of January, 1880.

Filed this 6th day of March, 1880, nunc pro tunc as of 2d Wednesday of Jan'y, 1880.

U. S. circuit court, Mar. 6th, 1880. John I. Davenport, clerk.

8 The question aforesaid, and the point aforesaid is this:

Is the act of Congress approved March 1st, 1875, entitled "An act to protect all citizens in their civil and legal rights," constitutional so far as it relates to theaters and places of public amusement in the State of New York.

And this certificate, with an abstract of the record, the clerk of this court is directed to certify under the seal of the court to the Supreme Court of the United States at its present term.

March 8th, 1880.

SAML. BLATCHFORD.
WM. G. CHOATE.

(Endorsed:) U. S. circuit court. Filed March 8th, 1880. John I. Davenport, clerk.

9 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, John I. Davenport, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to eight, inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the case of The United States against Samuel D. Singleton, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this ninth day of March, in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the said United States the one hundred and fourth.

[SEAL.] JOHN I. DAVENPORT, *Clerk.*

(Indorsement on cover:) No. 196. The United States, plaintiff, vs. Samuel D. Singleton. S. New York C. C. U. S. Filed 10th March, 1880.

(Stamped:) Office Supreme Court U. S. Filed Mar. 10, 1880. D. W. Middleton, clerk.